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CPA 26618
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Continued Prosecution Application (CPA)
REQUEST TRANSMITTAL

Submit an original, and a duplicate for fee processing.
(Only for Continuation or Divisional applications under 37 C.F.R. § 1.53(d))

CHECK BOX, if applicable
☐ DUPLICATE

Address to: Assistant Commissioner for Patents Box CPA Washington, DC 20231	Attorney Docket No. of Prior Application	902.739-1
	First Named Inventor	Volkmar Heuer
	Examiner Name	EL 7661
	Group / Art Unit	2661
	Express Mail Label No.	762 606 369 US

This is a request for a ☐ continuation or ☒ divisional application under 37 C.F.R. § 1.53(d),
(continued prosecution application (CPA)) of prior application number 09 / 150,150
filed on Sep. 9, 1998, entitled Method for Transmitting Data Packets and Network Element for Carrying Out the Method

NOTES

CERTIFICATE OF EXPRESS MAILING

I here by certify that, on the date shown below, this correspondence is being deposited with the United States Postal Service in an envelope addressed to the Assistant Commissioner for Patents, Box CPA, Washington, D.C. 20231, as "Express Mail Post Office to Addressee" EL 762 606 369 US

Date: Jan. 23, 2001

Debra C LaPak
Name:

request, 37 C.F.R. § 1.78(a).

- ☐ Enter the unentered amendment previously filed on _____ under 37 C.F.R. § 1.116 in the prior nonprovisional application.
- ☒ A preliminary amendment is enclosed.
- This application is filed by fewer than all the inventors named in the prior application, 37 C.F.R. § 1.53 (d)(4).
 - ☐ DELETE the following inventor(s) named in the prior nonprovisional application:

 - ☐ The inventor(s) to be deleted are set forth on a separate sheet attached hereto.
- ☐ A new power of attorney or authorization of agent (PTO/SB/81) is enclosed.
- Information Disclosure Statement (IDS) is enclosed:
 - ☒ PTO-1449
 - ☒ Copies of IDS Citations

[Page 1 of 2]

Burden Hour Statement. This form is estimated to take 0.4 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box CPA, Washington, DC 20231

(Continued Prosecution Application (CPA) Request Transmittal (PTO/SB/29)) [4-2.1]—page 1 of 2

01/25/2001 WKOROMA 00000124 09150150

FC:131

710.00 OP

CLAIMS	(1) FOR	(2) NUMBER FILED	(3) NUMBER EXTRA	(4) RATE	(5) CALCULATIONS
TOTAL CLAIMS (37 C.F.R. § 1.16(c) or (i))		16 -20* =		x \$ _____ =	\$ _____
INDEPENDENT CLAIMS (37 C.F.R. § 1.16(b) or (j))		2 -3** =		x \$ _____ =	\$ _____
MULTIPLE DEPENDENT CLAIMS (if applicable) (37 C.F.R. § 1.16(d))				+ \$ _____ =	\$ _____
				BASIC FEE (37 C.F.R. § 1.16)	710.00
				Total of above Calculations =	710.00
				Reduction by 50% for filing by small entity (Note 37 C.F.R. §§ 1.9, 1.27 & 1.28).	
				TOTAL =	710.00

6. Small entity status:

- a. ☐ A small entity statement is enclosed, if (b) and (c) do not apply.
b. ☐ A small entity statement was filed in the prior nonprovisional application and such status is still proper and desired.
c. ☐ Is no longer claimed.

7. The Commissioner is hereby authorized to credit overpayments or charge the following fees to Deposit Account No. _____:

- a. ☐ Fees required under 37 C.F.R. § 1.16.
b. ☐ Fees required under 37 C.F.R. § 1.17.
c. ☐ Fees required under 37 C.F.R. § 1.18.

8. ☒ A check in the amount of \$ 710.00 is enclosed.

9. ☒ New Attorney Docket Number, if desired 902.739-1

(Prior application Attorney Docket Number will carryover to this CPA unless a new Attorney Docket Number has been provided herein.)

10 a. ☐ Receipt For Facsimile Transmitted CPA (PTO/SB/29A)

- b. ☒ Return Receipt Postcard (Should be specifically itemized, See MPEP 503)

11. ☒ Other: Application Data Sheet; PETITION TO SUSPEND PROS. 3 MO.

NOTE: The prior application's correspondence address will carry over to this CPA UNLESS a new correspondence address is provided below.

12. NEW CORRESPONDENCE ADDRESS

☒ Customer Number or Bar Code Label

4955

or ☐ New correspondence address below

(Insert Customer No. or Attach bar code label here)

Name	Milton Oliver				
Address					
City		State		Zip Code	
Country		Telephone	(203) 261-1234	Fax	(203) 261-5676

13. SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print /Type)	Milton Oliver
Signature	<i>Milton Oliver</i>
Registration No. (Attorney/Agent)	28,333
Date	January 18, 2001

Practitioner's Docket No. 902.739

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Heuer

Application No.: 09 / 150,150 Group No.: 2661

Filed: 09/09/98 Examiner: S. HOM

For: Method for transmitting data packets and network element for carrying out the method

Assistant Commissioner for Patents
Washington, D.C. 20231

NOTIFICATION OF FILING OF CONTINUING,
DIVISIONAL OR CONTINUED PROSECUTION APPLICATION

Notification is hereby being made of the filing of a:

- ☐ continuation
- ☐ continuation-in-part
- ☒ divisional
- ☐ continued prosecution

application for this case

- ☒ concurrently herewith.
- ☐ on _____

Date

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CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10

(When using Express Mail, the Express Mail label number is mandatory;
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

- ☐ deposited with the United States Postal Service in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231

37 C.F.R. § 1.8(a)

37 C.F.R. § 1.10*

- ☐ with sufficient postage as first class mail.

☒ as "Express Mail Post Office to Addressee"

Mailing Label No. _____ (mandatory) *EL 762 606 369 US

TRANSMISSION

- ☐ transmitted by facsimile to the Patent and Trademark Office.

Signature

Ellen C. LaPak

(type or print name of person certifying)

***WARNING:** Each paper or fee filed by Express Mail **must** have the number of the "Express Mail" mailing label placed thereon prior to mailing. 37 C.F.R. § 1.10(b).

"Since the filing of correspondence under § 1.10 without the Express Mail mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will **not** be granted on petition." Notice of Oct. 24, 1996, 60 Fed. Reg. 56,439, at 56,442.

(Notification of Filing of Continuing, Divisional or Continued Prosecution Application [4-9] (page 1 of 2))

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Heuer

Application No.: 09 / ~~450,450~~

Group No.: 2661

Filed: 09/09/98 JAN. 23, 2001

Examiner: S. Hom

For: (HEREWITH)
METHOD FOR TRANSMITTING DATA PACKETS AND NETWORK ELEMENT FOR
CARRYING OUT THE METHODAssistant Commissioner for Patents
Washington, D.C. 20231

PETITION FOR SUSPENSION OF PROSECUTION UNDER 37 C.F.R. § 1.103

divisional

1. Applicant petitions for the suspension of action in this application.

2. Status of application

(complete (a) or (b))

(a) ☒ No outstanding action exists in this application.(b) ☐ With respect to the action mailed on _____, a response☐ was filed on _____.☐ is attached.

NOTE: No petition for suspension of action will be granted in an application when a response by the applicant to an Office Action is required. (37 C.F.R. § 1.103(a)).

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10

(when using Express Mail, the Express Mail label number is mandatory;
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

☐ deposited with the United States Postal Service in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231

37 C.F.R. § 1.8(a)

37 C.F.R. § 1.10*

☐ with sufficient postage as first class mail.☒ as "Express Mail Post Office to Addressee"Mailing Label No. EL 762 606 369 US(mandatory)

TRANSMISSION

☐ transmitted by facsimile to the Patent and Trademark Office.

Signature

Date: 01/23/01Ellen C. LaPak

(type or print name of person certifying)

***WARNING:** Each paper or fee filed by Express Mail **must** have the number of the "Express Mail" mailing label placed thereon prior to mailing. 37 C.F.R. § 1.10(b)."Since the filing of correspondence under § 1.10 without the Express Mail mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will **not** be granted on petition." Notice of Oct. 24, 1996, 60 Fed. Reg. 56,439, at 56,442.

(Petition for Suspension of Prosecution [9-18]—page 1 of 2)

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Technology Center 2600

3. Fee Payment (37 C.F.R. § 1.17(i)–\$130.00)

- ☒ Attached is a ☒ check ☐ money order in the amount of \$ 130.00
☐ Authorization is hereby made to charge the amount of \$ _____
☐ to Deposit Account No. _____
☐ to Credit card as shown on the attached credit card information authorization form PTO-2038.

WARNING: Credit card information should **not** be included on this form as it may become public.

- ☐ Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

A duplicate of this paper is attached.

4. Term requested for suspension

The suspension of action is requested for the reasonable time period of 3 months.

NOTE: The maximum period that an initial suspension of prosecution will be granted for is 6 months. M.P.E.P. § 709.

5. Reason for suspension request

The suspension of action is requested for good and sufficient cause, as indicated below:

(use additional sheet(s) as necessary)

U.S. counsel needs time to confer with European counsel because a Petition to Make Special will probably be filed and the appropriate scope of the claims must be reassessed in the light of all known prior art.

Milton Oliver

SIGNATURE OF PRACTITIONER

Reg. No.: 28,333

Milton Oliver

(type or print name of practitioner)

Tel. No.: (203) 261-1234

WARE, FRESSOLA, VAN DER SLUYS & ADOLPHSON LLP

Customer No.: 4955

P O Address 755 Main Street, PO Box 224
Monroe, CT 06468-0224

PATENT
ATT. DKT 902-739-1

IN THE U.S. PATENT & TRADEMARK OFFICE

Applicant: Volkmar HEUER

Serial #: Divisional of (ALLOWED) 09/ 150,150

Filed: HEREWITH

For: METHOD FOR TRANSMITTING DATA PACKETS AND
NETWORK ELEMENT FOR CARRYING OUT THE METHOD

Examiner: Not yet assigned Art Unit: 2661

PROPOSED DRAWING CORRECTION

Assistant Commissioner for Patents
Washington, D.C. 20231

JAN. 23, 2001

Sir:

The Examiner and Official Draftsperson are requested to approve the addition of the legends

"PRIOR ART" to FIGS. 1 & 2, as was required by the Examiner in parent application

S.N. 09/ 150,150.

Respectfully submitted,

Milton Oliver

Milton Oliver, Reg. No. 28,333
Attorney for the Applicant
Tel 203-261-1234
Fax 203-261-5676

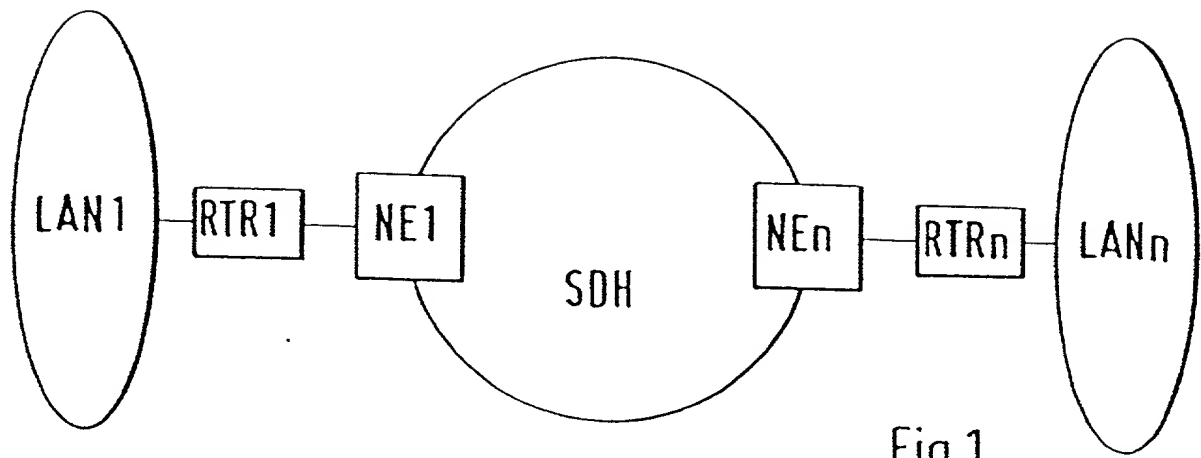
WARE, FRESSOLA, VAN DER SLUYS
& ADOLPHSON LLP
Bradford Green, Building Five
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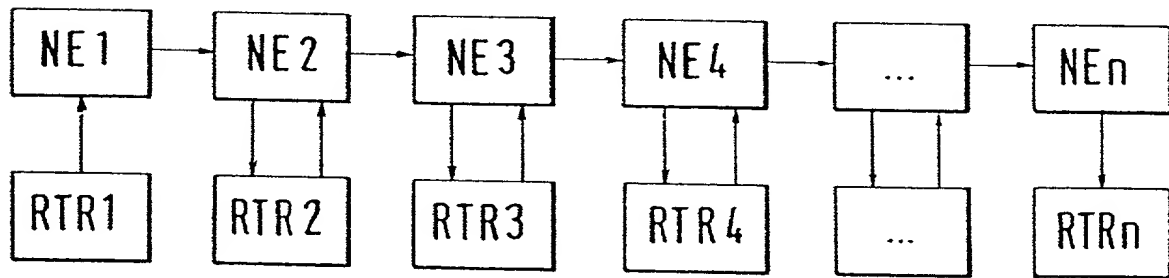
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OFFICE OF PETITIONS

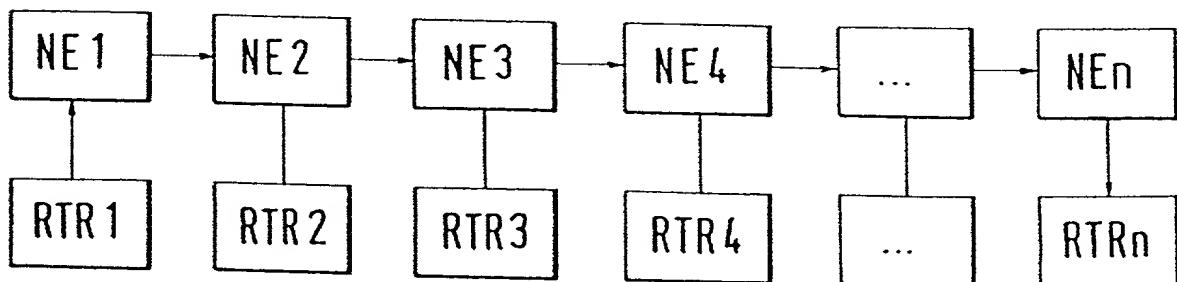
09/150,150



PRIOR ART



PRIOR ART





#21
DAC

IN THE U.S. PATENT & TRADEMARK OFFICE

Applicant: HEUER
Serial #: 09/_____ (div. of S.N. 09/ 150,150)
Attorney ref.#: 902-739.1
Filed: JAN. 23, 2001 via Express Mail **EL 762 606 369 US**
For: METHOD FOR TRANSMITTING DATA PACKETS . . .

PETITION TO CONSTRUE APPLICATION AS FILED UNDER RULE 53(b)

Commissioner for Patents
Washington, D.C. 20231

JULY 25, 2001

Sir:

After closing of prosecution in S.N. 09/ 150,150 and payment of the Issue Fee therein on JAN. 18, 2001, Applicant filed a divisional application on JAN. 23, 2001, together with copies of the application papers of parent application S.N. 09/ 150,150, a Preliminary Amendment, a Proposed Drawing Correction, and a Patent Application Bibliographic Data Sheet and a Petition for Suspension of Prosecution "in this divisional application" for 3 months, stating that "U.S. counsel needs time to confer with European counsel because a Petition to Make Special will probably be filed and the appropriate scope of the claims must be reassessed in the light of all known prior art." Serial No. 09/ 150,150 matured into US Patent 6,236,660 on MAY 22, 2001, as Applicant intended. Applicant received no response to the Petition for Suspension of Prosecution.

By mistake, a transmittal form PTO/SB/29 was used, which referred to Rule 53(d). An "Express Mail" certificate box was placed in the middle of the first page, **obscuring** the warning

I hereby certify that this document is being deposited, pursuant to 37 C.F.R. 1.8, in the U.S. Mail, first-class postage prepaid, addressed to the Commissioner for Patents, Washington, D.C. 20231, on JULY 26, 2001.

Milton Oliver

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JUL 31 2001

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09/09/01 09:01:01

902-739.1

that filing under Rule 53(d) implied a request to abandon the prior application and to put the new application in the **same** file wrapper. It **was not** counsel's intention to abandon the prior application, according to former "Rule 62" practice. It **was** counsel's intention, according to former "Rule 60 divisional" practice, that the divisional be assigned a **new** serial number and a **new** file wrapper; otherwise, counsel would not have submitted a **complete copy** of the parent application, would not have submitted a new IDS with references already considered in S.N. 09/150,150, and would not have submitted a Preliminary Amendment making the same specification changes as made in the parent application. Counsel's intention was further manifested by the simultaneous filing in S.N. 09/ 150,150 of a "Notification of Filing of Divisional Application"; such notification would not be necessary if the **same** file wrapper were to be maintained. Furthermore, it would have been illogical to request suspension of prosecution (and spend \$130 as Petition Fee) in an application in which prosecution was **already closed** and the Issue Fee was **already paid**.

In view of the foregoing facts, Applicant hereby petitions that the Commissioner exercise his authority under 35 U.S.C. § 182 to construe the divisional application as filed under Rule 53(b) rather than Rule 53(d), and to assign a new serial number to the application filed JAN. 23, 2001. Submitted herewith is a Petition Fee in the amount of \$130.00. If any additional fee is required, kindly charge to Deposit Account 23-0442.

Respectfully submitted,

Milton Oliver

Milton Oliver, Reg. No. 28,333
WARE, FRESSOLA, VAN DER SLUYS
& ADOLPHSON, LLP
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Tel. (203) 261-1234
Fax (203) 261-5676

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EXHIBITS TO PETITION:

- A Transmittal PTO/SB/29 with superimposed Express Mail cert.
- B Application Data Sheet
- C Preliminary Amendment dated JAN. 23, 2001
- D Copies of checks for filing fee & suspension petition fee
- E Petition for Suspension of Prosecution
"in this divisional application."
- F Notification of Filing of Divisional Application
(filed in parent application S.N. 09/ 150,150).
- G Proposed Drawing Correction
captioned "Serial #: Divisional of (Allowed) 09/ 150,150".
- H Information Disclosure Statement.
- I copy of text, drawings & declaration of parent case.
- J Notice of Recordation & copy of assignment of parent case.
- K Front page of USP 6,236,660 resulting from S.N. 09/ 150,150.

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